IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. WJC No.850 of 2006
PRITHWI CHAND GUPTA
Versus
THE STATE OF BIHAR & ORS

For the petitioner: Mr.Arun Behari Mathur,Sr. Advocate.
Mr.A.K.Mathur, Advocate.
For the State : Mr. Vishwajeet Kumar Mishra,A.P.P.
For the Respondent
Nos.6 and 7 : Mr.Kumar Shashank Shekhar,Advocate.

7 8.5.2008 Heard the learned counsel for the parties.

In the instant writ application the petitioner prays for issuance of an appropriate direction for grant of police protection for the safety of his life and his landed property measuring 5bighas 6 kathas and 14 dhurs of land situated in Mallahi Tola, P.S. Thakraha , District-Bagaha, West Champaran , and for initiating a proceeding against the respondents for unnecessary harassment.

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Learned counsel for the petitioner submits that a Title Suit No.1226 of 1916/17 was filed by Late Rajpat Sah against Anurag Mallah before Additional Munsif, Motihari, the ancestor of private respondent In 1917 the suit was decreed . In 1918 Execution Case No.370 of 1918 and 34 of 1919 was filed. The execution case led to the auction of 5 bighas 8 kathas 14 dhurs of the land in question which was purchased by the decreeholder. It is asserted that the decree holder got title and possession over the same and got his name mutated in Bettia Raj . The ex-landlord submitted the return and shown the name of the petitioner's ancestor in respect of the auction- purchased land measuring 5 bigha 6 katha and 8 dhurs.

Learned counsel for the petitioner submits that the private respondents did not go in appeal against the aforesaid decree and auction

purchase and as such the same became final. However, private respondents continued to pay rent to the Ex- land lord and in this respect he files various annexures to various authorities as contained in Annexures-5,6 and 7 with concerned documents. Learned counsel for the petitioner relied upon a decision in the case of Uma Devi vs. the State of Bihar and others reported in 2007 (2) PLJR 475 this Court observed as follows:-

> " This Court has considered the respective submissions of the counsel for the petitioner and the intervenor. In a civilised society governed by the rule of law every citizen has a right to enjoy his or her property unfettered by interference, except in accordance with law. Any interference with this right of enjoyment without the sanction of the law cannot be countenanced by a court of law. Should such enjoyment of properties sanctioned by law be interfered with, it shall be the solemn duty of the State to ensure that a citizen is permitted to live freely and fearlessly and enjoy the property. Every man's home is his castle. In the present case, this Court finds that the petitioner is a purchaser of the lands, which are described in the sale deed. Part of the vended lands which subsequently came to the possession of the petitioner in pursuance of an eviction decree of a court of law are also described in the execution decree. The petitioner cannot be obstructed and prevented from making construction upon her lands desc-

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ribed in the sale deed read in conjunction with the execution decree under a plan sanctioned by the competent authority much less by a third person."

The learned counsel for the Sate submits that the State respondent has filed counter affidavit and a report under section 107 Cr.P.C..

The learned counsel for the private respondent submits that the petitioner has not filed a copy of the decree and auction sale purchase before the Cirle Officer he ought to have filed the same.

After hearing this Court finds that the submission of the petitioner regarding money suit and auction sale purchase of 5 bighas 8 kathas and 14 dhurs of the land in Execution case has not been denied.

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The Hon'ble Supreme Court in the case of R.R. Murlidharan vrs. Swami Dharmananda Theertha Podar resported in (2006) 4 SCC 501 has observed in paragraph 18 of the said Judgment which is as follows:-

" A writ of mandamus directing the police authorities to give protection to the person of a writ petitioner can be issued, when the court is satisfied that there is a threat to his person and the authorities have failed to perform their duties and it is different from granting relief for the first time to a person either to allegedly protect his right to property or his right to an office, especially when the

when the pleadings themselves disclose that disputed quest ions are involved."

Thus, according to the proposition in law, that a person whose right to the property has been finally decided by a Court of law is entitled to its unfettered enjoyment of the same and the State acting through the District administration is obliged to ensure its enjoyment.

In this view of the matter, if the petitioner produces a copy of the decree and the documents in proof of auction purchase of the land in question before the District Collector the District Administration is bound to ensure that safe enjoyment of such rights in view of the law laid down by Apex Court and this Court.

With the aforesaid observation this application is allowed to the extent mentioned above.

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Anil Kr. Sinha **(Samarendra Pratap Singh,J.)**

A.F.R.